

are received by the Director of Nuclear Material Safety and Safeguards. Within ten (10) days after docketing, the applicant shall submit to the Director of Nuclear Material Safety and Safeguards a written statement that distribution of the additional copies to Federal, State, Indian Tribe, and local officials has been completed in accordance with requirements of this section and written instructions furnished to the applicant by the Director of Nuclear Material Safety and Safeguards.

(4) Amendments to the application and environmental report shall be filed and distributed and a written statement shall be furnished to the Director of Nuclear Material Safety and Safeguards in the same manner as for the initial application and environmental report.

(5) The Director of Nuclear Material Safety and Safeguards will cause to be published in the FEDERAL REGISTER a notice of docketing which identifies the State and location of the proposed waste disposal facility and will give notice of docketing to the governor of that State and other officials listed in paragraph (g)(3) of this section and, in a reasonable period thereafter, publish in the FEDERAL REGISTER a notice pursuant to § 2.105 offering opportunity to request a hearing to the applicant and other affected persons.

[41 FR 15833, Apr. 15, 1976; 41 FR 16793, Apr. 22, 1976, as amended at 42 FR 22885, May 5, 1977; 43 FR 46293, Oct. 6, 1978; 44 FR 60716, Oct. 22, 1979; 46 FR 13976, Feb. 25, 1981; 47 FR 9985, Mar. 9, 1982; 47 FR 57477, Dec. 27, 1982; 49 FR 9399, Mar. 12, 1984; 52 FR 31608, Aug. 21, 1987; 53 FR 43419, Oct. 27, 1988; 54 FR 27869, July 3, 1989; 63 FR 66730, Dec. 3, 1998; 64 FR 48947, Sept. 9, 1999; 65 FR 44659, July 19, 2000; 66 FR 55787, Nov. 2, 2001; 67 FR 67098, Nov. 4, 2002]

#### **§ 2.102 Administrative review of application.**

(a) During review of an application by the staff, an applicant may be required to supply additional information. The staff may request any one party to the proceeding to confer with the staff informally. In the case of a docketed application for a construction permit or an operating license for a facility, the staff shall establish a sched-

ule for its review of the application, specifying the key intermediate steps from the time of docketing until the completion of its review.

(b) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer the docketed application to the ACRS as required by law and in such additional cases as he or the Commission may determine to be appropriate. The ACRS will render to the Commission one or more reports as required by law or as requested by the Commission.

(c) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will make each report of the ACRS a part of the record of the docketed application, and transmit copies to the appropriate State and local officials.

(d)(1) Except as provided in paragraph (d)(2) of this section, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer and transmit a copy of each docketed application for a construction permit or an operating license for a utilization or production facility under section 103 of the Act to the Attorney General as required by section 105c of the Act.

(2) The requirements of paragraph (d)(1) of this section do not apply to an application for an operating license for a production or utilization facility under section 103 of the Act for which the construction permit was also issued under section 103, unless the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after consultation with the Attorney General and in accordance with § 2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review of the Attorney General and the Commission under section 105c of the Act in connection with the construction permit.

## Nuclear Regulatory Commission

## § 2.104

(3) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will cause the Attorney General's advice received pursuant to paragraph (d)(1) of this section to be published in the FEDERAL REGISTER promptly upon receipt, and will make such advice a part of the record in any proceeding on antitrust matters conducted in accordance with subsection 105c(5) and section 189a of the Act. The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will also cause to be published in the FEDERAL REGISTER a notice that the Attorney General has not rendered any such advice. Any notice published in the FEDERAL REGISTER pursuant to this subparagraph will also include a notice of hearing, if appropriate, or will state that any person whose interest may be affected by the proceeding may, pursuant to and in accordance with § 2.714, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. The notice will state that petitions for leave to intervene and requests for hearing shall be filed within 30 days after publication of the notice.

[27 FR 377, Jan. 13, 1962, as amended at 36 FR 13270, July 17, 1971; 37 FR 15130, July 28, 1972; 47 FR 9986, Mar. 9, 1982]

### § 2.103 Action on applications for byproduct, source, special nuclear material, and operator licenses.

(a) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is for a facility, or for the receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, or if it is to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 or 63 of this chapter, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as ap-

propriate, will inform the State, Tribal, and local officials specified in § 2.104(e) of the issuance of the license. For notice of issuance requirements for licenses issued pursuant to part 61 of this chapter, see § 2.106(d).

(b) If the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, finds that an application does not comply with the requirements of the Act and this chapter he may issue a notice of proposed denial or a notice of denial of the application and inform the applicant in writing of:

(1) The nature of any deficiencies or the reason for the proposed denial or the denial, and

(2) The right of the applicant to demand a hearing within twenty (20) days from the date of the notice or such longer period as may be specified in the notice.

[28 FR 10152, Sept. 17, 1963, as amended at 47 FR 57478, Dec. 27, 1982; 66 FR 55787, Nov. 2, 2001]

### HEARING ON APPLICATION—HOW INITIATED

#### § 2.104 Notice of hearing.

(a) In the case of an application on which a hearing is required by the Act or this chapter, or in which the Commission finds that a hearing is required in the public interest, the Secretary will issue a notice of hearing to be published in the FEDERAL REGISTER as required by law at least fifteen (15) days, and in the case of an application concerning a construction permit for a facility of the type described in § 50.21(b) or § 50.22 of this chapter or a testing facility, at least thirty (30) days, prior to the date set for hearing in the notice.<sup>1</sup>

<sup>1</sup>If the notice of hearing concerning an application for a construction permit for a facility of the type described in § 50.21(b) or § 50.22 of this chapter or a testing facility does not specify the time and place of initial hearing, a subsequent notice will be published in the FEDERAL REGISTER which will provide at least thirty (30) days notice of the time and place of that hearing. After this notice is given the presiding officer may reschedule the commencement of the initial hearing for a later date or reconvene a recessed hearing without again providing thirty (30) days notice.